

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION and
THE PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES, Attorney
General of the State of New York,

Plaintiffs,

v.

QUINCY BIOSCIENCE HOLDING
COMPANY, INC., a corporation;

QUINCY BIOSCIENCE, LLC, a limited
liability company;

PREVAGEN, INC., a corporation
d/b/a/ SUGAR RIVER SUPPLEMENTS;

QUINCY BIOSCIENCE
MANUFACTURING, LLC, a limited
liability company; and

MARK UNDERWOOD, individually and as
an officer of QUINCY BIOSCIENCE
HOLDING COMPANY, INC., QUINCY
BIOSCIENCE, LLC, and PREVAGEN,
INC.

Defendants.

Case No. 1:17-cv-00124-LLS

**NOTICE OF MOTION AND MOTION
TO STRIKE AFFIRMATIVE
DEFENSES PURSUANT TO
FED. R. CIV. P. 12(f)**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in
Support of Plaintiffs' Motion to Strike, and all pleadings filed in this action, Plaintiffs the
Federal Trade Commission and the People of the State of New York by Letitia James, Attorney
General of the State of New York, hereby move this Court, on a date and time to be determined
by the Court, for an order pursuant to Fed. R. Civ. P. 12(f) striking certain affirmative defenses
raised in the August 7, 2019 Answers filed by Corporate Defendants Quincy Bioscience Holding
Company, Inc. et al. (collectively "Quincy") and Individual Defendant Mark Underwood (Dkts.
73 and 74). Plaintiffs move specifically to strike Quincy's First, Second, Fifth, Sixth, Tenth,

Thirteenth, Fifteenth, and Seventeenth Affirmative Defenses and Underwood's corresponding First, Third, Sixth, Seventh, Tenth, and Fifteenth Affirmative Defenses and the Preamble to those defenses.

PLEASE TAKE FURTHER NOTICE that, on August 16, 2019, pursuant to Rule 2.A of the Rules of Individual Practices, Plaintiffs submitted a letter requesting a pre-motion conference on the proposed motion to strike and requested a stay of the August 28, 2019 deadline for filing the motion pending the outcome of that request (Dkt. 77). The Court granted the stay of the deadline on August 16, 2019 (Dkt. 78) and subsequently issued an Order on September 10, 2019 granting leave to file this Motion and the accompanying Memorandum of Law in Support of Plaintiffs' Motion to Strike (Dkt. 85).

Dated: September 16, 2019

FEDERAL TRADE COMMISSION

By: /s/ Michelle Rusk
Michelle Rusk
Annette Soberats
600 Pennsylvania Avenue NW
Mailstop CC-10528
Washington, DC 20580
(202) 326-3148, - 2921

PEOPLE OF THE STATE OF NEW YORK
BY LETITIA JAMES,
Attorney General of the State of New York

By: /s/ Kate Matuschak
Jane M. Azia
Kate Matuschak
Stephen Mindell
28 Liberty Street
New York, NY 10005
(212) 416-6189

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of September, 2019, I have caused service of the foregoing Plaintiffs' Notice of Motion to Strike Affirmative Defenses and the accompanying Memorandum in Support of Motion to Strike to be made by electronic filing with the Clerk of the Court using the ECF system, which will send a Notice of Electronic Filing to all counsel of record.

Dated: September 16, 2019
Washington, D.C.

/s/ Michelle Rusk
Michelle Rusk